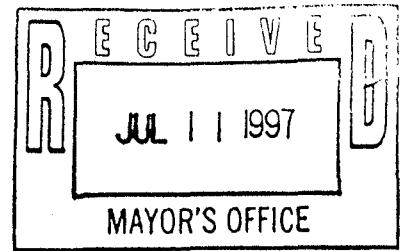


CITY OF BREMERTON



IN THE MATTER OF COMPLINCE )  
BY NATACHA AND WILLIAM )  
SESKO WITH CHAPTER 90.58 RCW )  
AND THE RULES AND REGULATIONS )  
ADOPTED THEREUNDER INCLUDING )  
THE BREMERTON SHORELINE )  
MASTER PROGRAM )

APPLICATION FOR REMISSION  
AND/OR MITIGATION

COME NOW William and Natacha Sesko, by and through their attorney, Steven B. Madsen, and, pursuant to Bremerton's Shoreline Master Program (BSMP) Ch. 7, § F(1)(e), make formal application for remission and/or mitigation of the Order and Notice of Penalty served on June 19, 1997.

Said application is made base on the following factors:

1. The Order and Notice of Penalty was issued contrary to the BSMP. Under BSMP Ch. 7, § F(1)(a), "The City Attorney shall bring such injunctive, declaratory, or other actions as are necessary..." (emphasis added). The instant order was issued and signed by "Donald L. Pratt, Director, Department of Community Development and Shoreline Administrator, City of Bremerton". Nowhere in the BSMP is the Shoreline Administrator authorized to issue an "Order and Notice of Penalty Incurred". To the contrary, the chapter and section of the BSMP authorizing the City Attorney to take enforcement action is the same chapter and section on which the City relies for the current enforcement action in paragraphs 4 and 5 under "Legal Conclusions" in its Order and Notice of Penalty Incurred. For this

APPLICATION FOR REMISSION  
AND/OR MITIGATION - 1

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reason, the instant Order and Notice of Penalty Incurred has been issued without the authority of law and is null and void.

2. William Sesko has not violated the Shoreline Management Act because his activities are not "Substantial Development" requiring a permit. The City has not alleged that Mr. Sesko's activities exceed \$2500.00, thereby requiring a Substantial Development Permit under RCW 90.58. Mr. Sesko asserts that the value of his activities is below \$2500.00 and that those activities do not require a permit.


3. Mr. Sesko's activities are "water-related" in that 1) they involve the movement of materials into and out of the waters of Puget Sound; and 2) that they are "industrial" activities as permitted by the BSMP. Mr. Sesko's activities are thus consistent with the BSMP and the Shoreline Management Act.

4. The City is without authority to order removal of the crane. The use of the crane to move materials into and out of Puget Sound is a permitted, water-related activity. Its location on the property is not "Substantial Development" requiring a permit.

WHEREFORE William and Natacha Sesko respectfully submit that the Notice and Order of Penalty Incurred is contrary to law and should be remitted.

DATED, this 11th day of July, 1997.

By:

  
STEVEN B. MADSEN  
WSBA No. 24382

APPLICATION FOR REMISSION  
AND/OR MITIGATION - 2

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I delivered/mailed/faxed a copy of this document to:

Mayor's Office, on July 11, 1997  
at Bremerton, WA.

Signed St B Madsen.  
Steven B. Madsen